

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARK HEINRICHS, individually and on
behalf of all others similarly situated,

No. C 13-05434 WHA

Plaintiff,

v.

WELLS FARGO BANK NA,

Defendant.

**REQUEST TO THE OFFICE OF
GENERAL COUNSEL OF THE
FEDERAL COMMUNICATIONS
COMMISSION**

In this action, the undersigned judge has been informed that there are two potentially dispositive petitions — one seeking declaratory ruling and the other formal rulemaking — to the Federal Communications Commission. Both petitions have to do with Section 227(b)(1)(A) of Title 47 of the United States Code, and specifically, the meaning of “called party” therein (emphasis added):

Restrictions on use of automated telephone equipment.

(1) Prohibitions


It shall be unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States —

(A) to make any call (other than a call made for emergency purposes *or made with the prior express consent of the called party*) using any automatic telephone dialing system or an artificial or prerecorded voice

1 Defendant Wells Fargo Bank N.A. has represented in this action that the deadline for
2 public comment on the aforementioned petitions has passed. Based on that representation, the
3 Court stayed this action several months ago, with the parties to submit a joint statement by
4 October 15, 2014.

5 The Court is now sending this inquiry directly to the Office of General Counsel of the
6 FCC as to ask whether it anticipates issuing a decision on either of the aforementioned petitions
7 by middle of October 2014. If not, the Office of General Counsel is requested to please state the
8 timetable for a decision. Please respond by **SEPTEMBER 26, 2014**.

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11 Dated: September 3, 2014.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE